

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LOUISE ROGERS TATE,
Plaintiff(s),

Justice Castel
07-CV-5885

- against -
NAN GHOSH, MICHAEL CHOEN, MOHD D.
FARUGUE, ARISTISIDIS SHISMEROS,
WAI KWOK HA, GOLAM MORTUJA,
FRED WEINGARTEN, and HILTON HOTELS
CORPORATION,
Defendant(s).

**Verified Answer
Trial by Jury
Demanded**

-----X
The defendant(s) **NANA GHOSH**, by his Attorney, **MARJORIE E. BORNES**, answering
the complaint of the plaintiff(s) **LOUISE ROGERS TATE** herein, respectfully allege(s) upon
information and belief, as follows:

AS AND FOR HIS ANSWER TO THE PARTIES

1. Denies knowledge or information to form a belief as to each and every allegation
contained in paragraph(s) A1", "3", "4", "5", "6", "7", "8" and A9" of the Complaint.

AS AND FOR HIS ANSWER TO THE JURISDICTION AND VENUE

2. Denies knowledge or information to form a belief as to each and every allegation
contained in paragraph(s) A10" of the Complaint

**AS AND FOR HIS ANSWER TO THE FIRST
CAUSE OF ACTION ON BEHALF OF PLAINTIFF, LOUISE ROGERS TATE**

3. Denies knowledge or information to form a belief as to each and every allegation
contained in paragraph(s) A11", "13", "14", "15", A16", "19", "20", "21", "22", "23", "24", "25",
"26", "27", "28", "29", and A34" of the Complaint.

4. Denies each and every allegation contained in paragraph(s) "18" of the
Complaint except admits that Ghosh had consent and permission of the owner to operate the
vehicle.

5. Denies each and every allegation contained in paragraph(s) A30" and "31" of the
Complaint as to defendants Ghosh.

6. Denies each and every allegation contained in paragraph(s) A32", "33", "35", "36", and "37" of the Complaint.

AS AND FOR HIS FIRST AFFIRMATIVE DEFENSE

7. That the Court lacks personal jurisdiction over the answering defendant(s) in that the Summons and Complaint was not served upon the defendant(s), and if the Summons were served, said service was not in accordance with the applicable provisions of Article 3 of the CPLR, governing the service of process.

AS AND FOR HIS SECOND AFFIRMATIVE DEFENSE

8. That by reason of all of the provisions of Article 51 of the New York Comprehensive Motor Vehicle Insurance Reparations Act, §5101 to §5108, this Court lacks jurisdiction over the subject matter of this action and plaintiff(s) is expressly prohibited by the above mentioned law from maintaining this action.

AS AND FOR HIS THIRD AFFIRMATIVE DEFENSE

9. Upon information and belief, pursuant to CPLR §1412, any damages sustained by plaintiff(s) were caused in whole or in part or were contributed to by the culpable conduct and want of care on the part of plaintiff(s) and any such alleged damages should be fully or partially diminished by said culpable conduct and want of care on the part of the plaintiff(s) pursuant to CPLR Article 14-A.

AS AND FOR HIS FOURTH AFFIRMATIVE DEFENSE

10. Pursuant to C.P.L.R. 4545, plaintiff(s)'s recovery should be reduced by any amounts received or to be received by plaintiff(s) from collateral sources of payment.

AS AND FOR HIS FIFTH AFFIRMATIVE DEFENSE

11. That if it be determined hereafter that plaintiff(s) or any party to this lawsuit has proceeded to arbitration with respect to any issue relevant to this action which results in an

adverse ruling to said plaintiff(s) or party, then and in that event, the answering defendant(s) hereby plead said adverse ruling or award on the theory of collateral estoppel under the authority.

AS AND FOR HIS SIXTH AFFIRMATIVE DEFENSE

12. Plaintiff(s)'s injuries do not meet the jurisdictional amount required for diversity actions in this Court.

AS AND FOR HIS SEVENTH AFFIRMATIVE DEFENSE

13. That the liability of the defendant(s), if any, does not exceed fifty (50%) percent of the liability assigned to all persons, if any, liable and that the liability of the defendant(s), if any for non-economic loss is limited pursuant to Article 16 of the CPLR.

AS AND FOR A HIS AFFIRMATIVE DEFENSE

14. If it be determined that each respective plaintiff failed to use available seat belts, defendant(s) pleads said fact in mitigation of damages.

CROSS-CLAIM AGAINST DEFENDANT(S) MICHAEL COHEN, MOHD D. FARUGUE, ARISTISIDIS SHISMEROS, WAI KWOK HA, GOLAM MORTUJA, FRED WEINGARTEN, AND HILTON HOTELS CORPORATION

15. That if plaintiff(s) were caused to sustain any injuries and/or damages, as alleged in his Complaint, through the negligence, recklessness, carelessness and/or culpable conduct other than the plaintiff(s)'s own negligence, recklessness, carelessness and/or culpable conduct, said injuries and damages were caused by the negligence, recklessness, carelessness and/or affirmative acts of omission or commission and/or breach of contract and/or other culpable conduct of the co-defendant(s) against whom this cross-claim is pleaded and if any judgment is recovered herein by the plaintiff(s) against the defendant(s) asserting this cross-claim, then said defendant(s) demand indemnification and/or contribution against the co-defendants.

16. By reason of the foregoing, the co-defendants against whom this cross-claim is pleaded, on the basis of apportionment of responsibility for the alleged occurrence, pursuant to

Article Fourteen of the CPLR and on the basis of common law indemnification, are liable in contribution and/or indemnification to the said defendant(s) asserting this cross-claim and if any judgment is recovered herein by the plaintiff(s) against the defendant(s) asserting this cross-claim, the said defendant(s) will be damaged thereby and the co-defendants against whom this cross-claim is pleaded is or will be responsible therefore.

WHEREFORE, the defendant(s) **NANA GHOSH** hereby demand judgment dismissing the Complaint with costs or, in the alternative, if the Complaint shall not be dismissed, the amount of damages otherwise recoverable against said defendant(s) shall be diminished in the proportion which the culpable conduct attributable to the plaintiff(s) bears to the culpable conduct, if any, of said defendant(s) and further demand, pursuant to §3019(b) of the CPLR, that the ultimate rights of the defendants in this action as amongst themselves be determined in this action, and that the cross-claiming defendant(s) have judgment over and against the co-defendants for the amount of any verdict or judgment which may be obtained herein by the plaintiff(s) against said cross-claiming defendant(s), or in the alternative, for contribution toward such verdict or judgment pursuant to Article 14 of the CPLR, together with costs and disbursements of this action, plus any and all attorney's fees.

Dated: New York, NY
October 10, 2007

Yours, etc.,

MARJORIE E. BORNES, ESQ. MB6505
Attorneys for Defendant(s)
Nana Ghosh
330 West 34th Street - 7th Floor
New York, NY 10001
(212) 857-8252

TO: JON L. NORINSBERG, ESQ

Attorney for Plaintiff(s) *Tate*
225 Broadway – Suite 2700
New York, NY 10007
(212) 791-5396

BAKER, McEVOY, MORRISSEY & MOSKOVITS, PC

Michael Josephs, Esq.
Attorneys for Defendant(s)
Mohd D. Faugue
330 West 34th Street – 7th Floor
New York, NY 10001
(212) 857-8230

PHILIP J. RIZZUTO, PC

Attorneys for Defendant(s)
Wia Kwok Ha
One Old Country Road – Suite 285
Carle Place, NY 11514
(516) 622-0606

FRED WEINGARTEN

54-11 Queens Boulevard
Woodside, NY 11377-4642

MICHAEL COHEN

22-05 43rd Avenue
Long Island City, NY 11101-5018

ARISTIDIS SHISMEROS

11-06 Broadway
Astoria, NY 11106-4838

GOLAM MORTUJA

31-27 34TH Street
Long Island City, NY 11106-1718

HILTON HOTEL CORPORATION

9336 Civic Center Drive
Beverly Hills, Ca 90210-3604

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
KARA O'GRADY,

Plaintiff(s),

Justice Marrero
07-CV-8207

- against -

PAMELA BUTLER, TIFFANY BUTLER,
SINGH GURPINDER and PAL MANDEEP
Defendant(s).

-----X

CERTIFICATION OF SERVICE BY EFILING AND MAIL

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

I hereby certify that on October 10, 2007 the foregoing document **VERIFIED ANSWER TRIAL BY JURY DEMANDED** was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Southern District=s Local Rules, and/or the Southern District=s Rules on Electronic Service, upon:

In addition, on October 10, 2007, I served the same papers described above by depositing a true copy of same enclosed in a post paid properly addressed wrapper in a post office under the exclusive care and custody of the U.S. Postal Service within the State of New York addressed to each attorney or party as follows:

TO: SEE RIDER

MARJORIE E. BORNES, ESQ

RIDER

By electronic filing:

TO: JON L. NORINSBERG, ESQ

Attorney for Plaintiff(s) *Tate*
225 Broadway – Suite 2700
New York, NY 10007
(212) 791-5396

BAKER, McEVOY, MORRISSEY & MOSKOVITS, PC

Michael Josephs, Esq.
Attorneys for Defendant(s)
Mohd D. Faugue
330 West 34th Street – 7th Floor
New York, NY 10001
(212) 857-8230

PHILIP J. RIZZUTO, PC

Attorneys for Defendant(s)
Wia Kwok Ha
One Old Country Road – Suite 285
Carle Place, NY 11514
(516) 622-0606

By regular mail:

TO: FRED WEINGARTEN

54-11 Queens Boulevard
Woodside, NY 11377-4642

MICHAEL COHEN

22-05 43rd Avenue
Long Island City, NY 11101-5018

ARISTIDIS SHISMEROS

11-06 Broadway
Astoria, NY 11106-4838

GOLAM MORTUJA

31-27 34TH Street
Long Island City, NY 11106-1718

HILTON HOTEL CORPORATION

9336 Civic Center Drive
Beverly Hills, Ca 90210-3604

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
INDEX # 07-CV-5885

LOUISE ROGERS TATE,
Plaintiff(s),

- against -
NAN GHOSH, MICHAEL CHOEN, MOHD D. FARUGUE, ARISTISIDIS SHISMEROS,
WAI KWOK HA, GOLAM MORTUJA, FRED WEINGARTEN, and HILTON HOTELS
CORPORATION,
Defendant(s).

VERIFIED ANSWER TRIAL BY JURY DEMANDED

MARJORIE E. BORNES, ESQ.
Attorney for Defendant(s) *Singh and Mandeep*
330 West 34th Street - 7th Floor
New York, NY 10001
(212) 857-8252

TO:
Attorney for _____
Service of a copy of the within _____ is hereby admitted.

Dated _____ Attorneys for _____

PLEASE TAKE NOTICE

Notice of Entry
that the within is a true copy of a _____ duly entered in the office of the Clerk of the within Court
on _____, 200 .

Notice of Settlement
that an order of which the within is a true copy will be presented for settlement to the Hon.
, one of the Judges of the within named Court, at _____ on _____ at _____ A.M.
Dated _____

MARJORIE E. BORNES, ESQ.
Attorney for Defendant(s)
Singh and Mandeep
330 West 34th Street - 7th Floor
New York, NY 10001
212-857-8252

TO:
Attorney for _____